

Serial: 179276

IN THE SUPREME COURT OF MISSISSIPPI

No. 89-R-99015-SCT

***RE: LOCAL RULES OF THE
ELEVENTH CHANCERY
COURT DISTRICT***

ORDER

This matter is before the Court en banc on the request for approval of local rules filed by the Honorable Janace Harvey-Goree and the Honorable Cynthia L. Brewer of the Eleventh Chancery Court District. The proposed local rules are attached as Exhibit A.

Having considered the petition, the Court finds that the local rules will promote the fair and efficient administration of justice and that the request should be granted.

IT IS THEREFORE ORDERED that the request for approval of local rules filed by the Honorable Janace Harvey-Goree and the Honorable Cynthia L. Brewer of the Eleventh Chancery Court District is hereby granted.

IT IS FURTHER ORDERED that the Clerk of this Court shall spread this order upon the minutes of the Court and shall forthwith forward a true certified copy hereof

to West Publishing Company for publication as soon as practical in the advance sheets of *Southern Reporter, Third Series (Mississippi Edition)*.

SO ORDERED, this the 24th day of September, 2012.

/s/ George C. Carlson, Jr.

GEORGE C. CARLSON, JR.,
PRESIDING JUSTICE
FOR THE COURT

TO GRANT: ALL JUSTICES.

Exhibit A

LOCAL RULES FOR ELEVENTH CHANCERY COURT DISTRICT OF MISSISSIPPI

RULE 1. TERMS OF COURT

As established by prior order of the Court, the terms of Court for the Chancery Courts of each county in the Eleventh Chancery Court District shall commence on the first business day of each calendar month and terminate on the last business day of said month.

RULE 2. DOCKET SETTINGS

Attorneys must contact the Court Administrator assigned to each respective Chancellor to schedule any matters that are to be brought before the Court.

RULE 3. ASSIGNMENT OF RELATED CASES

In an effort to promote judicial economy, limit the opportunity for “judge-shopping,” and establish a uniform policy for handling related causes of action, the following policies are adopted.

(a) **Guardianships and Minor Settlements.** When a need arises to open guardianships and/or minor settlements for siblings, step-siblings, and/or half-siblings and the basis for such filings has arisen from the same causation, each case shall be assigned to the Chancellor to whom the first case is assigned. If any minor’s settlement arises out of an estate, the minor settlement(s) shall be assigned to the Chancellor to whom the estate matter is assigned. If the minor’s settlement is opened for the purpose of receiving an inheritance from two (2) or more estates, then the minor’s settlement action will remain with the Chancellor to whom it was assigned upon filing.

(b) **Reciprocal Causes of Action.** When one party initiates a cause of action against another party and the defendant from the first action later files a reciprocal cause of action against the plaintiff from the first action and both actions arise from the same set of facts, the two (2) actions shall be consolidated into the smaller cause number with that Chancellor regardless of to whom the later filed action was assigned.

(c) **Dismissed Causes of Action.** If a party initiates a cause of action which is voluntarily dismissed or dismissed on a Clerk’s motion for want of prosecution and later re-files a new cause of action based upon the same or substantially similar causation as the previously

dismissed filing, then the new cause of action shall be assigned to the Chancellor to whom the initial cause of action had been assigned.

RULE 4. EX PARTE MATTERS

(a) Notwithstanding the provisions of Rules 3 above, either Chancellor in the Eleventh Chancery Court District may sign *Ex Parte* Orders for matters filed in any of the district's four counties based upon the following schedule:

(1) **Judge Janace Harvey-Goree.** Judge Goree will hear *Ex Parte* matters from 9:30 am until 11:00 am each Thursday when Court is in session in Holmes and Yazoo Counties. In Madison County, Judge Goree will hear *Ex Parte* matters on Friday mornings from 8:30 am until 9:20 am.

(2) **Judge Cynthia L. Brewer.** Judge Brewer will hear *Ex Parte* matters on Thursdays during morning hours in Leake County and all day on Fridays in Madison County.

(b) *Ex Parte* matters may also be heard at any other time by the Chancellors as they may allow, provided such matters are scheduled in advance with the respective Court Administrator.

RULE 5. TRIAL AND HEARING DATES

(a) Trial dates will not be assigned unless all discovery, appraisals, valuations, and evaluations have been completed. To ensure discovery is complete, attorneys shall file a Notice of Completion of Discovery.

(b) Trial and Hearing Dates on Judge Goree's calender may be obtained from her Court Administrator in Yazoo City at 662-746-3894 or Lexington at 662-834-1285.

(c) Trial and Hearing Dates on Judge Brewer's calender may be obtained from her Court Administrator in Canton at 601-855-5512.

RULE 6. CHANCERY CLERKS AND THEIR AUTHORITY

(a) **Rule 81 Matters.** Pursuant to Court Order and Rule 81(d)(5) of the Mississippi Rules of Civil Procedure, all Chancery Clerks in the Eleventh Chancery District are authorized to set Rule 81 actions or matters for original hearings and to continue the same for hearing on a later date. Court Administrators in the District are Deputy Chancery Clerks and, therefore, are authorized to set such matters pursuant to Rule 81 (d)(5). All continuance orders must be signed on the original hearing date.

(b) **Acts of the Clerk Permitted Under Miss. Code Ann. § 9-5-141.**

(1) In Madison County, the Chancery Clerk is hereby authorized to perform those acts set forth in Miss. Code Ann. § 9-5-141, which include:

(i) admitting wills to probate in common form, taking proof thereof, and granting letters testamentary;

(ii) appointing administrators/trixes and administrators/trixes with the will annexed and *de bonis non* of intestate estates, issuing letters of administration thereto;

(iii) appointing guardians for minors and conservators for persons of unsound mind and issuing letters of guardianship or conservatorship thereto;

(iv) determining and adjudicating issues involving the collection and preservation of assets of testate and intestate estates, guardianships, and conservatorships;

(2) The powers specified herein above include the power to require that bond be posted in such amount as the Clerk may deem to be sufficient, unless in the case of testate estates, such requirement is waived in the testator's will.

(3) Proceedings before the Clerk shall conform to the provisions of Miss. Code Ann. § 9-5-145, and, where applicable, to the Uniform Chancery Court Rules.

(4) All such acts, judgments, orders, or decrees entered by the Clerk shall be presented to the Chancellor to whom the case is assigned at the conclusion of each monthly term of court, and, at that time, each such act, judgment, order, or decree shall be reviewed by – and either approved or disapproved by – the assigned Chancellor as set forth in Miss. Code Ann. § 9-5-147. All such acts, judgments, orders, or decrees are, therefore, subject to modification or rescission until finally approved.

(5) Until further order of the Court, the acts authorized to be performed herein shall be performed only by the Clerk himself and not by one of his deputy clerks.

(6) The Clerk may perform these acts at any time whether a Chancellor is present in the courthouse or not and regardless of case assignment.

(7) Nothing herein shall prevent attorneys from presenting such matters to the assigned Chancellor directly, and it is preferred that attorneys do so when a Chancellor is available and present in the Courthouse.

(8) The Clerk is at all times free to decline to perform such acts if, in his

determination, the matter warrants consideration by the assigned Chancellor or he is otherwise uncomfortable hearing the matter.

(9) The Clerk shall not hear such matters brought by pro se litigants in light of Rule 6.01 of the Uniform Chancery Court Rules and he shall not hear such matters wherein one or more of the parties seeks to name him as a fiduciary.

(10) In Leake County, the Chancery Clerk is authorized, pursuant to Miss. Code Ann. § 91-5-141, to sign an order admitting a will to probate if:

- (i) a Chancellor is not present in the courthouse.
- (ii) the original will is presented.
- (iii) the will specifically appoints the executor named in the petition.
- (iv) the will specifically waives bond in favor of the named executor.
- (v) the Clerk is comfortable under the circumstances.

(c) Rule 6 (b) is not applicable in Holmes and Yazoo Counties.

RULE 7. PREPARATION AND SUBMISSION OF JUDGMENTS

(a) Adherence to Rule 5.04 of the Uniform Chancery Court Rules is required. As provided for therein, all judgments must be presented to the assigned Chancellor within 10 calendar days after being directed to draw the same.

(b) Before every trial, hearing, or status conference attorneys shall have in their possession a computer disk containing a proposed judgment. Following disposition of the matter at hand, attorneys will not be permitted to leave the Courthouse until a judgment has been signed by the attorneys, their clients, and the presiding Chancellor.

RULE 8. STAFF ATTORNEYS

Both Chancellors highly encourage all attorneys to utilize their staff attorneys. Judge Goree's staff attorney may be reached at 662-746-3894. Judge Brewer's staff attorney may be reached at 601-855-5512.

RULE 9. PARENTING CLASSES

Parties who have filed for a divorce in Madison County and have minor children are required to attend a two (2) hour parenting class arranged by the Court. These classes are held on the 2nd Tuesday of each month and are for parents only. The Court will enter an order in each such case accordingly. Attorneys should contact the Court Administrator for the assigned Chancellor if questions or emergencies arise.

RULE 10. MISSISSIPPI ELECTRONIC COURT SYSTEM

By prior Orders of the Chancery Court of Madison County, the Mississippi Electronic Court System (MEC) has been adopted and approved for use in Madison County. The Administrative Procedures for the MEC as approved by the Mississippi Supreme Court in Cause No. 2008-AD-00001-SCT by Order dated December 11, 2008 have likewise been adopted. Pleadings and practice in all matters other than adoptions in Madison County Chancery Court shall conform to said Procedures and any subsequent editions thereof. Said Procedures are available on the Mississippi AOC website and are incorporated herein by reference. By separate Order and upon approval by the Mississippi Supreme Court, other Courts in this District may subsequently adopt and approve the MEC.

RULE 11. CERTIFICATE OF FIDUCIARY AND CERTIFICATE OF ATTORNEY

(a) In accordance with Miss. Code Ann. §91-7-283 et seq., and Rules 6.01, 6.02 and 6.03 of the Uniform Chancery Court Rules, in every case wherein a fiduciary is appointed by the Court, after taking his or her Oath:

(1) the fiduciary shall complete, execute, and file with the Clerk of Court a sworn Certificate of Fiduciary in the form attached hereto as *Exhibit 1*; and

(2) counsel for the fiduciary shall complete, execute and file with the Clerk of Court a Certificate of Attorney in the form attached hereto as *Exhibit 2*.

(b) The forms required by this Rule shall be completed, executed and filed with the Clerk of Court as a condition precedent to the Clerk's issuance of the appropriate form of Letters.

(c) Every fiduciary must advise the Clerk of Court in writing of any change of address of either the fiduciary or the ward or both.

RULE 12. FUNDS HELD IN THE REGISTRY OF THE COURT

(a) Pursuant to Miss. Code Ann. §9-1-43(4), the Clerks of this District shall maintain a "Chancery Court Clerk Clearing Account" in each county and said account shall constitute the "Registry of the Court." Such account shall draw interest at an appropriate rate. However, except as provided in subsection (b), all funds deposited in said account, when disbursed on order of the Court, shall be disbursed without interest.

(b) Attorneys or parties who desire that funds deposited in the "Registry of the Court" independently bear interest accruing to the benefit of the depositor or ultimate payee shall

so specify in writing to the Court at the time the funds are presented to the Court. In such case, the Clerk shall make such deposit in a separate, segregated fund or account within the “Registry of the Court” such that it will accrue interest accordingly. Such attorneys or parties shall provide to the Clerk an appropriate tax identification number for use in establishing such account.

(c) Except for funds deposited pursuant to subsection (b) above, interest accruing on funds deposited to the “Registry of the Court” account and any non-statutory fines levied by the Court and paid into said account shall be subject to disbursement upon written requisition of the Chancery Clerk in the county of origin approved by the Chancellors. Such disbursement(s) shall be limited to purchases or services which (i) upgrade the technological capacity of the Court, (ii) aid in the timely resolution of matters pending before the Court, and (iii) are otherwise allowed as deductions by Schedule C of the Internal Revenue Code as authorized by Miss. Code Ann. § 9-1-43 (1).

RULE 13. SEPARATE CAUSES OF ACTION IN FIDUCIARY AND ADOPTION MATTERS

A single cause of action under Titles 91 and 93 of the Mississippi Code may not encompass more than one ward, decedent, or individual to be adopted. Rather, separate causes of action shall be maintained for each such ward, decedent, or individual to be adopted.

RULE 14. SUBPOENAS SOUGHT TO BE ISSUED BY PRO SE LITIGANTS

The Clerks of Court in this District may, prior to issuing subpoenas submitted by pro se litigants under Rule 45 of the Mississippi Rules of Civil Procedure, present such subpoenas to the assigned Chancellor for review to insure compliance with said Rule 45.

[Adopted by order entered February 18, 2009, and approved by the Supreme Court by order entered April 16, 2009; Amended and approved by the Supreme Court by order entered September 27, 2012.]